



City of Seattle

Gregory J. Nickels, Mayor

Department of Design, Construction and Land Use

D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

Application Number: 2302253
Applicant Name: Garrett Birkeland
Address of Proposal: 4001 NE 95th Street

SUMMARY OF PROPOSED ACTION

Master Use Permit to subdivide one parcel into two parcels of land in an environmentally critical area (Potential Landslide Area). Proposed parcel sizes are Parcel A) 7,073.8 sq. ft., and Parcel B) 6,785sq. ft. Existing detached garage to be removed.

The following approvals are required:

Short Subdivision - to create two parcels of land.(SMC Chapter 23.24).

SEPA - Environmental Determination (Chapter 25.05, Seattle Municipal Code.)

SEPA DETERMINATION: ☐ Exempt ☒ DNS ☐ MDNS ☐ EIS

☐ DNS with conditions

☐ DNS involving non-exempt grading or demolition
or involving another agency with jurisdiction

*Early Notice DNS published May 22, 2003

BACKGROUND DATA

Site and Vicinity

The 13,630 sq. ft. site is located in a Single Family 7200 (SF-7200) zone. The site is located on the corner of 40th Avenue NE and Northeast 95th Street. The property is rectangular in shape, and has approximately 95 lineal feet of frontage on NE 95th Street and 145 ft. on 40th Avenue NE which abuts the entire west side property line. The subject site is relatively flat. Both 40th Avenue NE and NE 95th Street are paved with asphalt with no sidewalks, curbs and gutters. There is an existing single family residence located on the westerly portion of the lot adjacent to

40th Avenue NE, which will remain. However, the detached garage located towards the rear of the site would be demolished. Parking for the existing residence will be relocated to proposed Parcel A. There is no alley.

Property surrounding the site and the remainder of the immediate neighborhood are also zoned single family residential uses; the minimum lot size varies. Development in the area consists of one to two-story single family houses of varying age and architectural style. The Single Family 7200 (SF 7200) zone abuts Single Family 5000 (SF 5000) zone to the west.

Proposal

The proposal is to subdivide one parcel of land into two lots. Proposed sizes are as indicated in the summary above. Parcel A, with the existing house will have vehicular to NE 95th street to the north. Parcel B, will have vehicular access via 40th Avenue NE to the west. The detached garage on proposed Parcel B will be removed. Future development of the Parcel B will be subject to the applicable provision of the ECA regulations (SMC 25.09), Potential Landslide areas. No development or construction activities are associated with this subject proposal. The subject of this analysis and decision is only for the proposed subdivision of land.

Public Comments

Notice of the proposed project was published on May 22, 2003. The public comment period ended on June 4, 2003. Two comment letters were received. Both comments indicated that the proposed subdivision is not in the best interest of the single family neighborhood.

ANALYSIS - SHORT SUBDIVISION

Based on information provided by the applicant, referral comments from DCLU, review and approval from Seattle Public Utilities, Seattle Fire Departments, and Seattle City Light; and review by the Land Use Planner, the following findings are made with respect to the applicable criteria:

Pursuant to SMC 23.24.40, no short plat shall be approved unless all of the following facts and conditions are found to exist:

1. Conformance to the applicable Land Use Code provisions.

The parcels created by this proposed division of land would conform to all development standards of the SF 7200 zoning district. The existing structure on proposed Parcel A would meet the development standards of the SF 7200 zone. Both parcels would meet the requirements for the code-required exceptions to lot size. Parcel A with the existing Single Family residence would be 7,073.8-sq. ft. and Parcel B would be 6,785.0 sq. ft. The lot sizes are of the proposed pursuant to the "75/80 rule", established in SMC 23.44.010 and therefore, may have less than the required lot area. Each lot will have adequate buildable lot area to meet applicable yards and lot coverage requirements. No building permits have been requested on proposed Parcel B; however, the configuration of the lots will permit construction of new single family residential structure in accordance with applicable development standards of the SF 7200 zone.

The existing parking on proposed Parcel B will be relocated on Parcel A.

2. *Adequacy of access for vehicles, utilities, and fire protection, as provided in Section 23.53.005.*

The proposed parcels will have adequate access for vehicles, utilities, and fire protection via NE 95th Street or 40th Av NE for Parcel A and via 40th Avenue NE for Parcel B. The applicant signed and submitted a no protest agreement to allow future street improvement in this area. The Seattle Fire Department has reviewed and approved this proposal for adequacy of emergency vehicle access. Seattle City Light approved this proposal for adequacy of access for electrical service and has indicated that no easements are required.

3. *Adequacy of drainage, water supply, and sanitary sewage disposal.*

The existing structure on proposed Parcel A is connected by single side sewer to an 8-inch public sanitary sewer (PSS) located in NE 95th Street. According to the information provided by the DCLU drainage reviewer, there is another 8 inch sanitary sewer located in 40th Avenue NE. In order to provide sewer service to proposed Parcel B, a new connection to the PSS will be required. Applicant should contact Sewer and Drainage counter in DCLU, 20th Floor Key Tower Building for side sewer permit and shared connection agreement at the time of the building permit application.

There is an existing ditch and culvert system located on both 40th Avenue NE and NE 95th Street adjacent to the proposal site. Storm detention with controlled release to both the ditch and culvert systems is likely to be required for construction in excess of 2000 square feet development coverage. If the project is greater than 5000 square feet new or replaced impervious surface, a comprehensive drainage control plan will be required.

The Seattle Public Utilities has indicated that water is available to the properties. Water Availability Certificate 03-0496 was issued on May 16, 2003. Naturally, all Water Department Conditions of approval must be met.

4. *Whether the public use and interests are served by permitting the proposed division of land.*

Public use and interest would be served because an additional housing opportunity would be provided within the City limits as a result of this subdivision of land.

5. *Conformance to the applicable provisions of SMC Section 25.09.240, Short Subdivisions and Subdivisions, in Environmentally Critical Areas.*

The proposed subdivision is located in an environmentally critical area (Potential Landslide Hazard Area), thus the subdivision is subject to the provision of the Critical Area Ordinance. Any new construction is subject to the provisions of SMC 25.09, Regulations for Environmentally Critical Areas. As the subject area is not located in riparian corridor buffer, wetland or wetland buffer, or steep slope (over 40%), the specific provisions of SMC 25.09.240 do not apply to this proposal.

6. *Is designed to maximize the retention of existing trees.*

There are numerous trees on the site that meet the size requirements to be regulated under this criterion most of which are fruit trees. Most of these trees are located on proposed Parcel B.

According to a site visit by the City Forester none of the trees would be classified as “exceptional”. Tree preservation and planting options and landscaping requirements of Seattle Municipal Code 23.44.008.I requires that trees for new single-family development be preserved or retained where ever possible. Future development is subject to SMC 25.09, which set forth tree planting requirements on single family lots.

7. *Conformance to the provisions of Section 23.24.045, Townhouses when the short subdivision is for the purpose of creating separate lots of record for the construction and/or transfer of title of townhouses.*

Section 23.24.045 is not applicable because the proposed short subdivision is not for the purpose of creating separate lots of record for the construction and/or transfer of title of townhouses.

DECISION - SHORT SUBDIVISION

The application is **CONDITIONALLY APPROVED.**

SEPA DETERMINATION:

Environmental review resulting in a Threshold Determination is required pursuant to the Seattle State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated May 14, 2003. The information in the checklist, the supplemental information submitted by the applicant, field inspection, public comments and the experience of the lead agency with similar projects form the basis for this analysis and decision. Note that pursuant to SMC 25.05.908.B, the scope of the environmental review of the subject short subdivision is limited to:

1. Documenting whether the proposal is consistent with The City of Seattle Regulations for Environmentally Critical Areas, SMC Chapter 25.09; and
2. Evaluating potentially significant impacts on the environmentally critical area resources not adequately addressed in The City of Seattle Environmentally Critical Areas Policies or the requirements of SMC Chapter 25.09, Regulations for Environmentally Critical Areas, including an additional mitigation measures needed to protect the environmentally critical areas in order to achieve consistency with SEPA and other applicable environmental review laws.

The Department of Construction and Land Use has analyzed the environmental checklist submitted by the applicant; reviewed the project plans and the additional information in the file; and any comments which may have been received regarding this proposed action have been considered. As indicated in the checklist, this action may result in impacts to the environment. However, due to their temporary nature and limited effects, the impacts are not expected to be significant.

Codes and development regulations applicable to this proposed project will provide sufficient mitigation and no further conditioning or mitigation is warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states, in part, that "Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation" subject to some limitations. Under such limitations or circumstances (SMC 25.05.665 D1-7) mitigation can be considered.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 2c.

[] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 2c.

CONDITIONS - SHORT SUBDIVISION

Conditions of Approval Prior to Recording

The owner(s) and/or responsible party(s) shall:

1. Have final recording documents prepared by or under the supervision of a Washington State licensed land surveyor. Each lot, parcel, or tract created by the short subdivision shall be surveyed in accordance with appropriate State statutes. Show the side yard setback for the existing house from the new lot line. The property corners set shall be identified on the plat and encroachments such as fences or structures shall be shown. Lot areas shall be shown on the plat. All existing structures, principal and accessory, shall be shown on the face of the plat and their distances to the proposed property lines dimensioned. The boundaries shall be adjusted if necessary to meet the requirements of the Land Use Code.
2. Add the "Conditions of Approval upon Application for Construction Permits," noted below, to the plat. These may be added to the face of the plat, or may be attached as a separate page. If the conditions are on a separate page, insert on the face of the plat "For Conditions of Approval upon Application for Construction Permit, see page ____ of ____."

3. Submit the final recording forms and fee for approval.

After Recording and Prior to Issuance of a Building Permit

4. Attach copy of the recorded short plat with the plan upon application for a construction permits.
5. Provide a standard drainage control plan. A new connection to the PSS will be needed in order to develop proposed Parcel B.

Signature: (signature on file) Date: August 18, 2003
Christopher A. Ndifon, Land Use Planner
Department of Design, Construction and Land Use
Land Use Division